

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

In re

Case Number 17-11990
Chapter 7

Douglas Arthur Lambert

Debtor(s).

Plaintiff

Douglas Arthur Lambert

v.

Adv. Proc. No. 17-

Defendant

Midland Funding LLC assignee for Capital One Bank/Polaris

COMPLAINT TO AVOID PRE-PETITION JUDGMENT LIEN

Comes now the Debtor(s)/Plaintiff(s), by and through his undersigned counsel of record and would show unto the Court the following:

1. On September 12, 2017, the above referenced plaintiff's file a Chapter 7 bankruptcy case in this court which was assigned case # 17-11990.
2. Prior to the filing of this bankruptcy, defendant Midland Funding, LLC, assignee for Capital One Bank/Polaris, obtained a judgment against plaintiff in the amount of \$7,403.22 in the General Sessions Court of McNairy County, TN under Civil Action # 15CV33.
3. This judgment was obtained against him on or about April 6, 2015.
4. Defendant, Midland Funding, LLC assignee for Capital One Bank/Polaris then obtained a certified copy of its judgment and registered same in the Register's Office of McNairy

County, Tennessee. This judgment lien was recorded on deed book 416, pages 2244-2244 on or about June 18, 2015.

5. Pursuant to the laws in the State of Tennessee, said registration of a lien acts as a judgment lien on any real property that plaintiff owns in McNairy County.

6. The only property owned by plaintiff is a home located at 1420 Hubert Manuel Road, Michie, TN 38357.

7. The property located at 1420 Hubert Manual Road, Michie, TN 38357 was purchased by Plaintiff/Debtor and a warranty deed was recorded in the Register's Office in McNairy County, TN in Book 136 Page 34-35 with a property description as follows:

TRACT I: BEGINNING at the Southwest corner of the tract and the Northeast corner of the Himmy Bolding land; thence East 215.6 feet; thence run North 21 degrees, 29 minutes West 417.5 feet; thence run South 80 degrees 00 minutes West 50.17 feet; thence run in a Southerly direction 380 feet to the point of beginning, containing 1.17 acres, more or less.

TRACT II: BEGINNING at the Southwest corner of the Lambert tract, formerly the Richards 60 acres tract and run North 1 degree, 38 minutes East along West line of said tract 380 feet to the point of beginning; thence run North 1 degree 38 minutes East along West line of said tract 398.3 feet to the South right of way line of a public road; thence run North 67 degrees 30 minutes West 57 feet along said right of way; thence run South 5 degrees 37 minutes East 422 feet to the point of beginning. Containing .243 acres, more or less.

This being the same property as conveyed to the Grantor herein by deed as found of record in Deed Book 108, page 122, in the Register's Office of McNairy County.

8. The value of said home is \$42,500.00, however, there is a lien in favor of Commerce Bank with a payoff amount of \$43,733.00.

9. Plaintiff is entitled to a homestead exemption in the amount of \$12,500.00 on said home.

10. The pre-petition judgment lien of Midland Funding, LLC assignee of Capital One Bank/Polaris impairs the homestead to which plaintiff would otherwise be entitled in the property, and pursuant to 11 USC § 522 (f) (1) (A), said lien is voidable.

WHEREFORE, PREMISES CONSIDERED, Plaintiff/Debtor requests that this court issue an order declaring the pre-petition judicial lien of defendant to be null, void, and without effect and authorize the entry of said order to extinguish the pre-petition judgment lien of defendant.

RESPECTFULLY SUBMITTED

Robert B. Vandiver, Jr.
/s/ Robert B. Vandiver, Jr.
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CERTIFICATE OF SERVICE

The undersigned party, Attorney for party or agent therefore hereby certifies that on this 18th day of October, 2017, copies of the documents identified above were served by mail to the parties listed.

A complaint captioned complaint to avoid pre-petition judgment lien filed by the debtor counsel on October 18, 2017.

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